

Application No. 09/978383
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Amendment
Attorney Docket No. S63.2B-11467-US01

Remarks

This Amendment is in response to the Office Action dated July 21, 2005.

In the Office Action, claims 1, 7, 9, 12, 14 – 16, and 39 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,391,002 (“Kokish”). Claims 2 – 6, 8, 10, and 18 were objected to as being dependent upon a rejected base claim but were said to be allowable if rewritten in independent form.

Claim 4 had previously been changed, through typographical error, to depend from independent claim 1, in contrast to the claims as originally filed. In order to correct this inadvertent mistake, Applicant has currently amended claim 4 to depend from dependent claim 3, in conformance with the claims as originally filed.

Applicant acknowledges the allowance of claim 38.

The following comments are presented with headings and paragraph numbers corresponding to the Office Action.

Claim Rejections – 35 U.S.C. § 102

(2) In the Office Action, claims 1, 7, 9, 12, 14 – 16, and 39 were rejected under 35 U.S.C. § 102 as being anticipated by Kokish. In response, Applicant has amended claim 1 to be directed toward an endovascular prosthesis, in conformance with the specification. The specification, on page 6, states that FIG. 2 is “a first embodiment of an endovascular prosthesis.” Endovascular prostheses, as is well known in the art, include stents, grafts, and stent/graft combinations. (Specification, page 1). In contrast, a balloon catheter, as in Kokish, is not a stent, graft, or stent/graft combination. Rather, a balloon catheter is the mechanism used to deliver a stent, graft, or stent/graft combination (i.e. endovascular prosthesis) to the site of an aortic artery aneurysm. (Kokish, column 1, lines 43 – 55). Unlike an endovascular prosthesis, which remains at the aneurysm site, a balloon catheter is intended to be removed from the artery.

(Id.)

Applicant respectfully submits that claim 1 should be allowed because a claim is anticipated only if each and every element of the claim is set forth in a single prior art reference. *Verdegaal Bros v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

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Applicant respectfully asserts that Kokish fails to teach or suggest the use of an endovascular prosthesis with a pocket that singularly circumscribes a tubular member in an annular shape, as described in instant claim 1. Therefore Applicant believes that claim 1 is in condition for allowance and respectfully requests that the Examiner remove the rejection to this claim.

For at least the reasons presented above, Applicant believes that amended claim 39 is allowable and respectfully requests that the Examiner remove the rejection to this claim.

Furthermore, Applicant respectfully submits that because claims 2 – 10, 12, 14 – 16, and 18 depend from independent claim 1, which as argued above is not anticipated by Kokish, the rejections under 35 U.S.C. § 102 are improper and the claims should be allowed.

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Conclusion

In view of the foregoing, Applicant believes that the present application, with claims 1 – 10, 12, 14 – 16, 18, 38, and 39 pending, is in condition for allowance.

Should the Examiner determine that anything further would be desirable to place the application in better condition for allowance, the Examiner is invited to contact the Applicant's undersigned representative at the phone number listed below.

Respectfully submitted,

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Date: October 17, 2005

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